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17 Attorneys for Defendant and Counterclaimant
18 DANIEL N. ZENCHELSKY

19 UNITED STATES DISTRICT COURT
20
NORTHERN DISTRICT OF CALIFORNIA
21

SAN FRANCISCO DIVISION

22 PROTEGO NETWORKS, INC., a Delaware
corporation,

Case No. C05-00464 MJJ

23 Plaintiff,
v.
24 DANIEL N. ZENCHELSKY,
25 Defendant.

STIPULATION AND ~~PROPOSED~~
26 ORDER RE: FIRST AMENDED
COUNTERCLAIM

27 AND RELATED COUNTERCLAIM.

Complaint Filed: February 1, 2005

1 WHEREAS, at the July 26, 2005 Case Management Conference, the Court ordered the
2 parties to this Stipulation (the "Parties") to meet and confer before counterclaim defendants file
3 any motion to dismiss the counterclaim in this action;

4 WHEREAS, since that time, the Parties have been meeting and conferring in good faith
5 and have tried to narrow and clarify their disputes regarding the sufficiency of the counterclaim;

6 WHEREAS, these meet-and-confer efforts have resulted in the agreement set forth in the
7 below Stipulation;

8 **IT IS THEREFORE STIPULATED**, by and between counsel for the Parties, who are
9 authorized to execute this Stipulation on their clients' behalf, as follows:

10 1. Defendant and counterclaimant Daniel N. Zenchelsky shall file a first amended
11 counterclaim on or before Wednesday, August 17, 2005;

12 2. Counterclaim defendants (a) Protego Networks, Inc., now Protego Networks LLC,
13 ("Protego"); (b) Partha Bhattacharya; and (c) Imin Lee do not need to respond to Mr.
14 Zenchelsky's presently pending counterclaim but instead shall have up through and including
15 Tuesday, August 30, 2005, to answer or otherwise respond to his first amended counterclaim;

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FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

3. If these counterclaim defendants elect to respond to Mr. Zenchelsky's first amended counterclaim by filing a motion to dismiss, the following briefing and hearing schedule will apply:

- a. Opposition papers filed on or before Tuesday, September 13, 2005;
 - b. Reply papers filed on or before Tuesday, September 20, 2005; and
 - c. Hearing on Tuesday, October 4, 2005, at 9:30 a.m. in Courtroom 11.

IT IS SO STIPULATED.

Dated: August 12, 2005

FENWICK & WEST LLP

By: Rachael Samberg
Rachael G. Samberg

Attorneys for Plaintiff and Counterclaim Defendant
PROTEGO NETWORKS, INC., now Protego
Networks LLC, and Counterclaim Defendants
PARTHA BHATTACHARYA & IMIN LEE

Dated: August 11, 2005

**LINER YANKELEVITZ SUNSHINE &
REGENSTREIF LLP**

Kim Zeldin

~~Attorneys for Defendant and Counterclaimant
DANIEL N. ZENCHELSKY~~

PURSUANT TO GENERAL ORDER 45(X)

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this e-filed document.

Dated: Aug. 12, 2005

Rachael Samberg
Rachael G. Samberg

~~PROPOSED~~ ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

Dated: 8/16 , 2005

THE HONORABLE MARTIN J. JENKINS
UNITED STATES DISTRICT COURT JUDGE

PROOF OF SERVICE

The undersigned declares as follows:

I am a citizen of the United States and employed in San Francisco County, State of California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Fenwick & West LLP, Embarcadero Center West, 275 Battery Street, San Francisco, California 94111. On the date set forth below, I served a copy of the following document(s):

STIPULATION AND PROPOSED ORDER RE: FIRST AMENDED COUNTERCLAIM

on the interested parties in the subject action by placing a true copy thereof as indicated below, addressed as follows:

Kim Zeldin, Esq.
Ronald S. Kravitz, Esq.
Liner, Yankelevits Sunshine &
Regenstreif LLP
199 Fremont Street, 20th Floor
San Francisco, CA 94105-2255

Howard G. Silverman, Esq.
Kane & Silverman
Suite 1C-44
2401 Pennsylvania Avenue
Philadelphia, PA 19130

- BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
 - BY OVERNIGHT COURIER:** by placing the document(s) listed above in a sealed envelope with a prepaid shipping label for express delivery and causing such envelope to be transmitted to an overnight delivery service for delivery by the next business day in the ordinary course of business.
 - BY FACSIMILE:** by causing to be transmitted via facsimile the document(s) listed above to the addressee(s) at the facsimile number(s) set forth above.
 - BY E-MAIL:** by causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.
 - BY PERSONAL DELIVERY:** by causing to be personally delivered the document(s) listed above to the addressee(s) at the address(es) set forth above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed in San Francisco, California this 12th day of August, 2005.

Juanita Webb